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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN H. YOAKUM, GORDON QUINN, and
SAMUEL H. CHRISTIE, IV

Appeal 2007-3655
Application 10/647,999
Technology Center 2600

Decided: May 6, 2008

Before SCOTT R. BOALICK, CARLA M. KRIVAK, and
KARL D. EASTHOM, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection of claims 1-39. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF CASE

Appellants' claimed invention is a method for facilitating speed dialing employing a speed dial code that comprises an abbreviated telephone number sequence initially dialed from a public switch telephony network (PSTN) (Spec. 2:17-Spec. 3:2).

Claim 1 reproduced below, is representative of the subject matter on appeal.

1. A method of facilitating speed dialing comprising:

a) accessing an address corresponding to a speed dial code that comprises an abbreviated telephone number sequence, said speed dial code being initially dialed from a PSTN-based telephony device; and

b) sending a session initiation request including the address to initiate a voice session between a called party terminal associated with the address and the PSTN-based telephony device.

REFERENCES

Strathmeyer	US 2004/0120502 A1	Jun. 24, 2004 Filed Dec. 24, 2002
Takemoto	US 2003/0023748 A1	Jan. 30, 2003 Filed Jan 29, 2002

The Examiner rejected claims 1-39 under USC § 103(a) based upon the teachings of Strathmeyer and Takemoto.

Appellants contend the Examiner has improperly construed the term "speed dial" (App. Br. 6) and Strathmeyer and Takemoto cannot be combined to obtain Appellants' invention.

ISSUE

Did the Examiner err in finding claims 1-39 obvious over the combination of Strathmeyer and Takemoto under 35 U.S.C. § 103(a)?

FINDINGS OF FACT

1. Appellants' invention provides speed dial capability for PSTN-based telephony devices that use a speed dial code comprising an abbreviated telephone number sequence (Spec. 2:18-22).

2. Appellants have defined the term "speed dial code" as "an abbreviated telephone number sequence" (App. Br. 2; *see also* Spec. 6:31-7:14).

3. Strathmeyer teaches a method and apparatus that performs routing, queuing, and other call processing in packet telephone networks (Abstract). The apparatus employs a softswitch (Fig 1; 125) which resolves or translates call addresses (¶¶ [0018] and [0044]). The telephone address is the telephone number (¶ [0064]).

4. Takemoto teaches an Internet communication apparatus and transmission control method (Abstract). When an off-hook state of a connected terminal is detected, a dial tone signal is sent and converted to a

destination number. By checking a table, the destination number is converted to a destination address and it is determined whether the communication is for a facsimile or a telephone (Abstract).

PRINCIPLES OF LAW

"Section 103 forbids issuance of a patent when 'the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.'" *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1734 (2007). In *KSR*, the Supreme Court reaffirmed that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *Id.* at 1739.

"[T]he words of a claim 'are generally given their ordinary and customary meaning.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (citations omitted). The "ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Id.* at 1313.

If the Examiner's burden of establishing a prima facie case of obviousness is met, the burden then shifts to the Appellants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative

persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

ANALYSIS

It should be noted that Appellants argue independent claims 1, 9, 12, 20, 23, 30, and 37 together (App. Br. 9).[1] Further, since Appellants did not separately argue dependent claims 2-8, 10, 11, 13-19, 21, 22, 24-29, 31-36, 38, and 39, these claims stand or fall with their respective independent claims.

Claim 1

The Examiner, in his Answer, stated that Strathmeyer teaches all the elements of claim 1 except that Strathmeyer does not disclose a speed dial code that comprises an abbreviated telephone number sequence as does the present invention (Ans. 4). The Examiner then cited Takemoto for teaching a speed dial sequence comprising an abbreviated telephone number as taught by paragraph 26 (Ans. 5), stating that it would have been obvious to recognize speed dial codes and translate them into destination IP addresses as taught by Takemoto to realize advantages of "reduced keystrokes for faster dialing and reduced effort in memorizing numbers" (Ans. 5).

However, paragraph 26 of Takemoto recites a "corresponding table 15 that associates the phone number or speed dial number with the corresponding IP address or mail address, from the transmission request

[1] We refer to Appellants' Brief filed November 13, 2006, and the Examiner's Answer of February 23, 2007.

from the telephone 2 or facsimile 3." Takemoto does not define "speed dial number."

Appellants have asserted that the term "speed dial code" means an abbreviated telephone number sequence (FF 2; App. Br. 2) that corresponds to an address (Reply Br. 3), not a pre-stored telephone number that is typically referred to as a "speed dial number" (App. Br. 2). As an example of this, the Specification teaches that "the 'TO:' field is populated by a speed dial code instead of a normal address" (Spec. 7:8-9), and that a "terminal adaptor will receive a speed dial code, such as 12#, from a traditional telephony device" (Spec. 2:20-22). The Examiner contends that Appellants are incorrect in their assertion that the term "'speed dial numbers' applies only to fully stored numbers" (Ans. 10). The Examiner cited the AT&T All in One Call Management Features webpage[2] (hereinafter AT&T webpage) to show that a speed dial number corresponds to an abbreviated telephone number sequence (Ans. 10). We do not agree with the Examiner.

The Examiner's interpretation is neither consistent with the definition of the term as defined by Appellants in the Specification nor with what one of ordinary skill in the art at the time of the invention would have understood the term to mean. The AT&T webpage has a copyright date of 2006 and consequently is not prior art. Further, the Examiner has not indicated or provided evidence that the information therein was known to one of ordinary skill in the art at the time of the invention.

[2] Found at http://www.corp.att.com/smbcc/aio/aio_callmgmt.html.

The Examiner has not established a prima facie case of obviousness with respect to claim 1. The combination of Takemoto with Strathmeyer neither teaches nor suggests a method that includes accessing an address corresponding to a speed dial code that comprises an abbreviated telephone number sequence dialed from a PSTN-based telephony system, as claimed.

Claims 2-8 depend from claim 1, and we find that the Examiner erred in rejecting these claims for the same reasons as discussed with respect to claim 1.

Claims 9, 12, 20, 23, 30, and 37

Independent claims 9, 12, 20, 23, 30, and 37 are similar in scope to claim 1 and all recite the "speed dial code" discussed with respect to claim 1. Since this limitation was found lacking in the applied references, and these independent claims recite substantially the same limitations as claim 1, they also are not obvious in view of the combination of Takemoto and Strathmeyer for the above reasons.

Claims 10-11, 13-19, 21-22, 24-29, 31-36, and 38-39 depend from one of claims 9, 12, 20, 23, 30, and 37, and we find that the Examiner erred in rejecting these claims for the same reasons as discussed with respect to claims 9, 12, 20, 23, 30, and 37.

CONCLUSION

We therefore conclude that the Examiner erred in rejecting claims 1-39 under 35 U.S.C. § 103(a).

DECISION

The decision of the Examiner rejecting claims 1-39 is reversed.

REVERSED

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